Elizabeth K. Mase *Legislative Service Commission*

H.J.R. 3

126th General Assembly
(As Introduced)

Rep. Law

RESOLUTION SUMMARY

- Proposes to amend the Ohio Constitution to authorize the issuance of general obligations of the state to finance local government public infrastructure capital improvements.

CONTENT AND OPERATION

Overview

In 1995, the Ohio Constitution was amended to authorize the issuance of general obligations of the state to finance or assist in the financing of the cost of public infrastructure capital improvements of municipal corporations, counties, townships, and other governmental entities designated by statute and the cost of capital improvements for highways (Section 2m of Article VIII).[1] H.J.R. 3 proposes to amend the Ohio Constitution to authorize another issuance of general obligations of the state to finance or assist in the financing of the cost of public infrastructure capital improvements of municipal corporations, counties, townships, and other governmental entities designated by statute. The proposed amendment declares those improvements to be necessary to preserve and expand the public capital infrastructure of Ohio municipal corporations, counties, townships, and other governmental entities, ensure the public health, safety, and welfare, create and preserve jobs, enhance employment opportunities, and improve the economic welfare of the people of the state. (Proposed Section 2p, Article VIII--division (A).)

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[1] *See Section 2k of Article VIII of the Ohio Constitution that was the predecessor to Section 2m of Article VIII.*

Obligations amount and covered improvements

Under the proposed amendment, not more than $120 million principal amount of the proposed infrastructure capital improvement obligations, plus the principal amount of such obligations that in any prior fiscal year could have been issued but were not, generally may be issued in any fiscal year. But, the aggregate total principal amount of infrastructure capital improvement obligations authorized and issued under the proposed amendment cannot exceed $1.2 billion. Additionally, no infrastructure capital improvement obligations can be issued under the proposed amendment until $.5 million of obligations remain to be issued under Section 2m of Article VIII, the source of the state's current authority to issue up to $1.2 billion in general obligations for public infrastructure capital improvements. In general, the restrictions, terms, and conditions applicable to obligations issued under Section 2m of Article VIII are replicated by and made applicable to the infrastructure capital improvement obligations proposed by the amendment. (Proposed Section 2p, Article VIII--division (B)(1).)

Public infrastructure capital improvements allowed under the resolution are limited to roads and bridges, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including real property, interests in real property, facilities, and equipment related to or incidental thereto, and capital improvements could include the cost of acquisition, construction, reconstruction, expansion, improvement, planning, and equipping (proposed Section 2p, Article VIII--division (A)).

General provisions

Debt service

The full faith and credit, revenue, and taxing power of the state are pledged to the timely payment of the principal of and interest and other accreted amounts payable on the proposed obligations ("debt service"). Relatedly, the General Assembly is required to provide by law for the sufficiency and appropriation of excises, taxes, and revenues pledged to debt service, for covenants to continue the levy, collection, and application of sufficient excises, taxes, and revenues to the extent needed for purposes of paying debt service, and for the establishment of a bond retirement fund. (Proposed Section 2p, Article VIII--division (D)(2).)

Fees and taxes received in relation to the use of public highways by motor vehicles cannot be pledged for the payment of debt service on the obligations the proposed amendment authorizes (proposed Section 2p, Article VIII--division (D)(3)).

Debt charges and fiscal year limitations

In order that the total debt charges of the state do not exceed a proportion of general revenue fund expenditures that would adversely affect the credit rating of the state, the proposed amendment authorizes the provision, by law, of unspecified limitations upon the amount of the proposed obligations that may be issued in any fiscal year--these limitations would be in addition to those mentioned under "***Obligations amount and covered improvements***," above. Obligations issued to retire or refund obligations previously issued under the proposed amendment cannot be counted against the fiscal year or total issuance limitations to the extent that their principal amount does not exceed the principal amount of the obligations retired or refunded. (Proposed Section 2p, Article VIII--division (B)(1).)

Maturity

Each issue of obligations must mature in not more than 30 years from the date of issuance, or within 30 years from the date the debt originally was contracted if issued to retire or refund other obligations. If obligations are issued as notes in anticipation of the issuance of bonds, the General Assembly must provide for the establishment and maintenance, during the period in which the notes are outstanding, of a special fund or funds into which must be paid amounts that would have been sufficient, if bonds maturing during a period of 30 years had been issued without the prior issuance of notes, to pay the principal that would have been payable on such bonds during that period. The fund or funds must be used solely for the payment of principal of the notes or bonds in anticipation of which the notes have been issued. (Proposed Section 2p, Article VIII--division (D)(1).)

Tax exemption and use of proceeds

Obligations issued under the proposed amendment, their transfer, and any interest, interest equivalent, and other income and accreted amounts from them, including any profit made on their sale, exchange, or other disposition are at all times exempt from taxation within the state. The entire proceeds of the obligations must be used for public infrastructure capital improvements, except that the state also could be compensated pursuant to law from the proceeds for planning, financial management, or administrative services performed in relation to the issuance of the obligations. (Proposed Section 2p, Article VIII--divisions (C) and (D)(4).)

Buy Ohio provisions

The proposed amendment requires the General Assembly to provide by law for the use to the extent practicable of Ohio products, materials, services, and labor in the making of any project financed, in whole or in part, under the amendment (proposed Section 2p, Article VIII--division (B)(2)).

State participation permissible

Under the proposed amendment, the state could participate in any public infrastructure capital improvement with municipal corporations, counties, townships, or other governmental entities designated by law, or any one or more of them. The participation can be by grants, loans, or contributions for any covered capital improvement. (Proposed Section 2p, Article VIII--division (C).)

Inapplicable constitutional provisions

The proposed obligations as well as the payment of debt service and the repayment by governmental entities of any loans made under the proposed amendment are not subject to the following (proposed Section 2p, Article VIII--division (D)(2)):

- Section 5, Article XII, Ohio Constitution--prohibitions relative to the levying of taxes.
- Section 6, Article XII, Ohio Constitution--general prohibition against the state contracting any debt for purposes of "internal improvement."
- Section 11, Article XII, Ohio Constitution--provisions requiring bonded indebtedness of the state or a political subdivision to be subject to specified annual "interest" tax levys and to a sinking fund for final redemption at maturity.

Submission to the voters

If approved by the General Assembly, the proposed amendment must be submitted to the state's electors at the November 8, 2005 general election. If adopted by a majority of the electors voting on it, the amendment takes immediate effect.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-18-05	p. 68

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